

Applicants: Long Sheng Yu, et al.  
U.S. Serial No.: 10/799,534  
Filed: March 12, 2004  
Page 8

**REMARKS**

Claims 1, 3-6, 8-10, 12, and 14-17 are pending in this application. By this Amendment, applicants have amended claims 1, 3 and 12, and added new claims 18-27 herein. Support for the amendments and new claims is found in the specification, *inter alia*, on page 6, lines 4-8; page 6, line 22 - page 7, line 2; page 8, lines 2-4; page 8, line 21 - page 9, line 1; page 9, lines 5-14; page 9, line 22 - page 10, line 2; page 10, line 16 - page 11, line 2; and the corresponding Figures.

No issue of new matter is raised by these amendments. Accordingly, upon entry of this Amendment, claims 1, 3-6, 8-10, 12, and 14-27 will be pending and under examination in the subject application.

In view of the preceding claim amendments and the remarks which follow, applicants maintain that the grounds of rejections set forth in the October 12, 2011 Office Action have been overcome, and respectfully request that the Examiner reconsider and withdraw these grounds of rejection.

**Rejections Under 35 U.S.C. §102**

The Examiner rejected claims 1, 3 and 8-10 under 35 U.S.C. § 102(b) as allegedly anticipated by Poirier (U.S. Patent No. 4,086,665). Applicants respectfully traverse this rejection.

The Examiner asserts that Poirier discloses "...an inflow tube protruding from the pump portion (depicted in figure 3 as inlet connector 10), an adapter sleeve (curved section 76 in figure 3)...forming an extended inflow tube..." (Office Action, p. 3).

Applicants: Long Sheng Yu, et al.  
U.S. Serial No.: 10/799,534  
Filed: March 12, 2004  
Page 9

Contrary to the Examiner's assertion, the inlet connector 10 and the curved section 76 disclosed in Poirier are not the inflow tube and adapter sleeve forming an extended inflow tube as claimed in applicants' amended independent claim 1. Poirier does not disclose or suggest at least "...said extended inflow tube configured to pass through a wall of a ventricular apex of a heart..." as recited in applicants' amended independent claim 1. According to Poirier, "[a] curved section 76 is affixed to the end connector 36 of inlet conduit 10." (Poirier, col. 4, lines 26-27). "The curved section 76 is attached directly to the end connector 36 and a rigid inlet tube 78..., the inlet tube 78 is inserted through a hole in the heart muscle." (Poirier, col. 4, lines 27-30).

The inlet connector 10 and the curved section 76 disclosed in Poirier, referenced by the Examiner as forming an extended inflow tube, do not form an extended inflow tube configured to pass through a wall of a ventricular apex of a heart. In fact, neither inlet connector 10 nor the curved section 76 disclosed in Poirier pass through a wall of a ventricular apex of a heart. The inlet tube 78 disclosed in Poirier, which the Examiner asserts is the gripping member, is inserted through a hole in the heart muscle. Thus, Poirier does not disclose or suggest at least "...said extended inflow tube configured to pass through a wall of a ventricular apex of a heart..." as recited in applicants' amended independent claim 1.

For at least these reasons, applicants respectfully submit that Poirier does not disclose or suggest each and every element recited in amended independent claim 1. Accordingly, applicants respectfully submit that the rejection of claims 1, 3 and 8-10 under 35 U.S.C. § 102(b) is overcome and should be withdrawn.

Applicants: Long Sheng Yu, et al.  
U.S. Serial No.: 10/799,534  
Filed: March 12, 2004  
Page 10

Reconsideration is respectfully requested.

**Rejections Under 35 U.S.C. § 103**

A. The Examiner rejected claims 4, 6 and 15-16 under 35 U.S.C. § 103(a) as allegedly unpatentable over Poirier. Applicants respectfully traverse this rejection.

As described above, Poirier does not disclose or suggest each and every element of applicants' amended independent claim 1, which claims 4, 6 and 15-16 are dependent thereupon. Thus, applicants respectfully submit that dependent claims 4, 6 and 15-16 are believed allowable for reasons related to their own recitations, in addition to the reasons noted above.

Further, with regard to claims 15 and 16, applicants respectfully submit that Poirier merely discloses a threaded inlet tube 78. The Examiner acknowledges that Poirier makes no mention of gripping pins or gripping pads. However, the Examiner asserts that it would have been obvious to include gripping pins and gripping pads in the inlet tube 78 disclosed in Poirier to ensure connection even in the event the threaded connection becomes stripped. Because applicants' claimed invention is not found anywhere in Poirier, applicants submit that this obviousness rejection improperly relies on hindsight in view of applicants' disclosure. Such ex post reasoning is an improper basis for an obviousness rejection under 35 U.S.C. §103. See *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007). Applicants respectfully request that the rejected claims be reconsidered in light of well-established legal principles.

For at least these reasons, applicants respectfully submit that Poirier does not render independent claim 1 or claims 4, 6 and 15-

Applicants: Long Sheng Yu, et al.  
U.S. Serial No.: 10/799,534  
Filed: March 12, 2004  
Page 11

16 which are dependent thereupon, obvious to one skilled in the art. Accordingly, applicants respectfully submit that the rejection of claims 4, 6 and 15-16 under 35 U.S.C. § 103(a) is improper and should be withdrawn. Reconsideration is respectfully requested.

B. The Examiner rejected claims 1, 3-6, 8-10, 12 and 14-17 under 35 U.S.C. § 103(a) as being unpatentable over Jassawalla et al. (U.S. Patent No. 6,001,056, "Jassawalla") in view of Poirier. Applicants respectfully traverse this rejection.

As described above, Poirier does not disclose or suggest at least "...said extended inflow tube configured to pass through a wall of a ventricular apex of a heart..." as recited in applicants' amended independent claim 1. For the reasons described above, Poirier also does not disclose or suggest at least "...said extended inflow tube configured to pass through a wall of a ventricular apex of a heart..." as recited in applicants' amended independent claim 12.

Jassawalla does not cure the deficiencies of Poirier. Jassawalla does not disclose or suggest at least "...said extended inflow tube configured to pass through a wall of a ventricular apex of a heart..." as recited in applicants' amended independent claims 1 and 12. Rather, Jassawalla discloses a tubular cannula body that extends within an excised opening at the apex of the left ventricle. (See Jassawalla, Fig. 5). According to Jassawalla, "...the sewing ring 166 attaches to the reinforced cage 164 using stitches 196." (Jassawalla, col. 8, lines 46-48). The sewing ring includes or is attached to the tubular cannula body. The reinforced cage 164 does not extend within an excised opening at the apex of the left ventricle. (See Jassawalla, Fig. 5). Thus, Jassawalla does not disclose or suggest at least "...said extended

Applicants: Long Sheng Yu, et al.  
U.S. Serial No.: 10/799,534  
Filed: March 12, 2004  
Page 12

inflow tube configured to pass through a wall of a ventricular apex of a heart...," as recited in applicants' amended independent claims 1 and 12.

Further, with regard to dependent claims 15-17, applicants respectfully submit that neither Jassawalla nor Poirier make any mention of "gripping pins having gripping pads," "a cylindrical ring adapted to receive said gripping pins," or "a spring ring concentrically surrounding said cylindrical ring and configured to attach to said gripping pins at an end opposite said gripping pads." In rejecting claims 15-17, the Examiner merely states that it would be obvious to one having ordinary skill in the art to modify the stitches of Jassawalla and/or the threaded connections of Poirier to include such limitations. Contrary to the Examiner's assertion neither Jassawalla nor Poirier make any mention of such limitations. Jassawalla merely discloses stitches, and Poirier merely discloses threaded connections. Because applicants' claimed invention is not found anywhere in Poirier or Jassawalla, it appears that in creating this obviousness rejection the Examiner gleaned knowledge from applicants' disclosure using improper hindsight. Applicants respectfully request that the rejected claims be reconsidered in light of *KSR Int'l Co. v. Teleflex Inc.*.

For at least these reasons, applicants respectfully submit that the combination of Jassawalla and Poirier does not render independent claims 1 and 12, and by extension all other claims which are dependent thereupon, obvious to one skilled in the art. Accordingly, applicants respectfully submit that the rejection of claims 1, 3-6, 8-10, 12 and 14-17 under 35 U.S.C. § 103(a) is overcome and should be withdrawn. Reconsideration is respectfully requested.

Applicants: Long Sheng Yu, et al.  
U.S. Serial No.: 10/799,534  
Filed: March 12, 2004  
Page 13

**New Claims**

Applicants respectfully submit that new claims 18-27 are patentable over all of the cited references. New independent claim 18 recites: "...a cylindrical sleeve having an inner wall portion configured to extend over and form a seal against a standard sized ventricular assist pump inflow tube, the cylindrical sleeve forming an extended inflow tube configured to pass through a heart wall having a thickness...." For at least the reasons described above, new independent claim 18 is believed to be allowable over Jassawalla and Poirier.

For at least this reason, applicants respectfully submit that Jassawalla and/or Poirier alone or in combination do not render new independent claim 18, and by extension new claims 19-27 which are dependent thereupon, unpatentable. Accordingly, applicants respectfully submit that new independent claims 18-27 are patentable over all of the cited references.

Applicants: Long Sheng Yu, et al.  
U.S. Serial No.: 10/799,534  
Filed: March 12, 2004  
Page 14

Summary

A sincere effort has been made to distinguish the invention from the prior art references. In view of the preceding amendments and remarks, the Examiner is urged to withdraw the rejections of the claims and to pass the application to allowance at an early date.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee, is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

  
John P. White  
Registration No. 28,678  
Attorney for Applicants  
Cooper & Dunham LLP  
30 Rockefeller Plaza  
20<sup>th</sup> Floor  
New York, New York 10112  
(212) 278-0400

**Certificate of Transmission**  
I hereby certify that this correspondence is being transmitted via the Electronic Filing System (EFS) to the U.S. Patent and Trademark Office on January 11, 2012.

  
John P. White  
Reg. No. 28,678